

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

TRUSTEES OF THE NORTHWEST  
IRONWORKERS RETIREMENT TRUST; *et*  
*al.*,

Plaintiffs,

v.

U-STEEL INCORPORATED; DYNAMIC  
INTERNATIONAL AK, INC.; GENE LETTS;  
JACKIE LETTS; BERSCHAUER/PHILLIPS  
CONSTRUCTION CO.; SFECO  
INSURANCE COMPANY OF AMERICA and  
CITY OF VANCOUVER, WASHINGTON,

Defendants.

Case No. C05-5698FDB

ORDER FINDING DYNAMIC  
INTERNATIONAL'S MOTION TO  
COMPEL MOOT

In this case, which asserts violations of the Employee Retirement Income Security Act and the Labor-Management Relations Act, Plaintiffs seek to recover delinquent fringe benefit contributions and union dues allegedly owed by Defendant Dynamic International AK, Inc. to six employee benefit plans and two labor organizations. Plaintiffs now move for an order compelling Dynamic International to produce all documents within its possession, custody, and control that are responsive to their First, Second, and Third Requests for Production of Documents. Plaintiffs state that they have attempted to resolve this matter through telephone conferences with Defendant


1 Dynamic's attorneys (Jesse Miller and Steven Wraith) prior to filing this motion.

2 Meanwhile, Defendants Dynamic International, Gene Letts, and Jackie Letts obtained new  
3 counsel, Jeff Smyth, who substituted into this case by Order of this Court on September 8, 2006.  
4 Having received client files from former counsel, Mr. Smyth, states in his declaration that he has  
5 identified some responsive documents and are preparing supplemental responses to the requests for  
6 production. Mr. Smyth also avers that responses to Plaintiffs' Third Set of Requests for Production  
7 have been completed and were faxed to Plaintiffs' counsel on September 18, 2006, and that if  
8 additional documents are located, supplemental responses will be provided. Mr. Smyth also notes  
9 that a 39.1 mediator has been retained by the parties, who are hopeful that mediation will resolve the  
10 case. Therefore, Defendants contend that the motion is moot.

11 The Court having considered the motion and the response and noting that no reply contesting  
12 any statements of Dynamic International's counsel Jeff Smyth, now concludes that Plaintiffs' Motion  
13 to Compel is moot and should be stricken from the calendar.

14 NOW, THEREFOR, IT IS ORDERED: Plaintiffs' Motion To Compel Production of  
15 Documents [Dkt. # 43] is found to be MOOT and is STRICKEN from the Court's calendar.

16  
17 DATED this 3<sup>rd</sup> day of October, 2006.

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20 FRANKLIN D. BURGESS  
21 UNITED STATES DISTRICT JUDGE  
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